

SENATE MOTION

MADAM PRESIDENT:

I move that Senate Bill 232 be amended to read as follows:

- 1 Page 2, delete lines 14 through 21.
- 2 Page 3, between lines 41 and 42, begin a new paragraph and insert:
- 3 "SECTION 3. IC 25-34.1-3-4.1 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4.1. (a) To obtain a
- 5 broker license, an individual must:
- 6 (1) be at least eighteen (18) years of age before applying for a
- 7 license and must not have a conviction for:
- 8 (A) an act that would constitute a ground for disciplinary
- 9 sanction under IC 25-1-11;
- 10 (B) a crime that has a direct bearing on the individual's ability
- 11 to practice competently; or
- 12 (C) a crime that indicates the individual has the propensity to
- 13 endanger the public.
- 14 (2) have satisfied section 3.1(a)(2) of this chapter and have had
- 15 continuous active experience for one (1) year immediately
- 16 preceding the application as a licensed salesperson in Indiana;
- 17 however, this one (1) year experience requirement may be waived
- 18 by the commission upon a finding of equivalent experience;
- 19 (3) have successfully completed an approved broker course of
- 20 study as prescribed in IC 25-34.1-5-5(b);
- 21 (4) apply for a license by submitting the application fee prescribed
- 22 by the commission and an application specifying the name,
- 23 address, and age of the applicant, the name under which the
- 24 applicant intends to conduct business, the address where the
- 25 business is to be conducted, proof of compliance with
- 26 subdivisions (2) and (3), and any other information the
- 27 commission requires;
- 28 (5) pass a written examination prepared and administered by the
- 29 commission or its duly appointed agent; and
- 30 (6) within one hundred twenty (120) days after passing the

commission examination, submit the license fee of fifty dollars (\$50). If an individual applicant fails to file a timely license fee, the commission shall void the application and may not issue a license to that applicant unless that applicant again complies with the requirements of subdivisions (4) and (5) and this subdivision.

(b) To obtain a broker license, a partnership must:

- (1) have as partners only individuals who are licensed brokers;
- ~~(2) have at least one (1) partner who is a resident of Indiana;~~
- ~~(3) (2)~~ cause each employee of the partnership who acts as a broker or salesperson to be licensed; and
- ~~(4) (3)~~ submit the license fee of fifty dollars (\$50) and an application setting forth the name and residence address of each partner and the information prescribed in subsection (a)(4).

(c) To obtain a broker license, a corporation must:

- (1) have a licensed broker ~~residing in Indiana~~ who is either an officer of the corporation or, ~~if no officer resides in Indiana~~, the highest ranking corporate employee in Indiana with authority to bind the corporation in real estate transactions;
- (2) cause each employee of the corporation who acts as a broker or salesperson to be licensed; and
- (3) submit the license fee of fifty dollars (\$50), an application setting forth the name and residence address of each officer and the information prescribed in subsection (a)(4), a copy of the certificate of incorporation, and a certificate of good standing of the corporation issued by the secretary of state of Indiana.

(d) To obtain a broker license, a limited liability company must:

(1) if a:

(A) member-managed limited liability company,

~~(A)~~ have as members only individuals who are licensed brokers; ~~and~~

~~(B) have at least one (1) member who is a resident of Indiana;~~ or

~~(2) (B)~~ if a manager-managed limited liability company, have a licensed broker ~~residing in Indiana~~ who is either a manager of the company or, ~~if no manager resides in Indiana~~, the highest ranking company officer or employee ~~in Indiana~~ with authority to bind the company in real estate transactions;

~~(3) (2)~~ cause each employee of the limited liability company who acts as a broker or salesperson to be licensed; and

~~(4) (3)~~ submit the license fee of fifty dollars (\$50) and an application setting forth the information prescribed in subsection (a)(4), together with:

(A) if a member-managed company, the name and residence address of each member; or

(B) if a manager-managed company, the name and residence address of each manager, or of each officer if the company

1 has officers.

2 (e) Licenses granted to partnerships, corporations, and limited
3 liability companies are issued, expire, are renewed, and are effective on
4 the same terms as licenses granted to individual brokers, except as
5 provided in subsection (h), and except that expiration or revocation of
6 the license of:

7 (1) any partner in a partnership or all individuals in a corporation
8 satisfying subsection (c)(1); or

9 (2) a member in a member-managed limited liability company or
10 all individuals in a manager-managed limited liability company
11 satisfying subsection ~~(d)(2)~~; **(d)(1)(B)**;

12 terminates the license of that partnership, corporation, or limited liability
13 company.

14 (f) Upon the applicant's compliance with the requirements of
15 subsection (a), (b), or (c), the commission shall issue the applicant a
16 broker license and an identification card which certifies the issuance of
17 the license and indicates the expiration date of the license. The license
18 shall be displayed at the broker's place of business.

19 (g) Notice of passing the commission examination serves as a
20 temporary permit for an individual applicant to act as a broker as soon
21 as the applicant sends, by registered or certified mail with return receipt
22 requested, a timely license fee as prescribed in subsection (a)(6). The
23 temporary permit expires the earlier of one hundred twenty (120) days
24 after the date of the notice of passing the examination or the date a
25 license is issued.

26 (h) A broker license expires, for individuals, at midnight, December
27 31 and, for corporations, partnerships, and limited liability companies
28 at midnight, June 30 of the next even-numbered year following the year
29 in which the license is issued or last renewed, unless the licensee
30 renews the license prior to expiration by payment of a biennial license
31 fee of fifty dollars (\$50). An expired license may be reinstated within
32 one hundred twenty (120) days after expiration by payment of all
33 unpaid license fees together with twenty dollars (\$20). If the license is
34 renewed within eighteen (18) months, but more than one hundred
35 twenty (120) days, after expiration, the licensee must pay a late fee of
36 one hundred dollars (\$100) plus any unpaid license fees. If a broker
37 fails to reinstate a license within eighteen (18) months after expiration,
38 a license may not be issued unless the broker again complies with the
39 requirements of subsection (a)(4), (a)(5), and (a)(6).

40 (i) A partnership, corporation, or limited liability company may not
41 be a broker-salesperson except as authorized in IC 23-1.5. An individual
42 broker who associates as a broker-salesperson with a principal broker
43 shall immediately notify the commission of the name and business
44 address of the principal broker and of any changes of principal broker
45 that may occur. The commission shall then change the address of the
46 broker-salesperson on its records to that of the principal broker.

SECTION 4. IC 25-34.1-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) A resident of another state, meeting the requirements of this chapter, may be licensed.

~~(b) A nonresident individual broker may act only as a broker-salesperson.~~

~~(c)~~ (b) A nonresident salesperson or broker shall file with the commission a written consent that any action arising out of the conduct of the licensee's business in Indiana may be commenced in any county of this state in which the cause of action accrues. The consent shall provide that service of process may be made upon the commission, as agent for the nonresident licensee, and that service in accordance with the Indiana Rules of Trial Procedure subjects the licensee to the jurisdiction of the courts in that county.

~~(d)~~ (c) The requirements of this section may be waived for individuals of or moving from other jurisdictions if the following requirements are met:

(1) The jurisdiction grants the same privilege to the licensees of this state.

(2) The individual:

(A) is licensed; and

(B) has been practicing;

in that jurisdiction for at least two (2) years immediately before the date the application for licensure was filed under this chapter.

(3) The licensing requirements of that jurisdiction are substantially similar to the requirements of this chapter.

(4) The applicant states that the applicant has studied, is familiar with, and will abide by the statutes and rules of this state."

Page 4, line 19, after "standing" insert "**or other proof of a license in good standing**".

Page 4, line 22, delete "broker" and insert "**commission**".

Page 4, line 23, delete "described in subdivision (1)".

Page 4, line 33, after "trust" insert "**account**".

Page 4, line 41, after "of" insert "**at least**".

Page 4, line 41, after "years" insert ".".

Page 4, delete line 42.

Page 5, delete line 1.

Page 5, line 3, after "a" delete "real estate".

Page 5, line 4, after "salesperson" insert "**to be**".

Page 5, line 12, after "standing" insert "**or other proof of a license in good standing**".

Page 5, line 19, delete "or".

Page 5, line 20, after "rentals;" insert "**or**".

Page 5, between lines 20 and 21, begin a new line triple block

- 1 indented and insert:
2 **"(v) escrow funds;"**.
3 Page 5, line 33, delete "IC 25-24.1-3-5(c)." and insert "**IC**
4 **25-34.1-3-5(c).**".
5 Page 5, between lines 33 and 34, begin a new paragraph and insert:
6 "SECTION 6. IC 25-34.1-4-3 IS REPEALED [EFFECTIVE JULY
7 1, 2004]."
8 Page 5, delete lines 34 through 42.
9 Delete pages 6 through 7.
10 Renumber all SECTIONS consecutively.
(Reference is to SB 232 as printed January 23, 2004.)

Senator SERVER